

Luigi Spadafora, Esq.
NY No. 2366920
Brian J. Palmeri, Esq.
NY No. 4560793
Winget, Spadafora & Schwartzberg LLP
177 Broad Street, 10th Floor
Stamford, CT 06901
Tel: (203) 328-1200
Fax: (203) 328-1212
Spadafora.L@wssllp.com
Palmeri.B@wssllp.com
Attorneys for Defendants

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

AFP MANUFACTURING CORPORATION,

Plaintiff,

vs.

AFP IMAGING CORPORATION,
BIOWAVE INNOVATIONS LLC,
and R. SCOTT JONES

Defendants.

Civil Action No. 7:17-cv-03292-NSR

Hearing Date: _____

Hearing Time: _____

Courtroom: _____

**DEFENDANTS AFP IMAGING CORPORATION, BIOWAVE INNOVATIONS, LLC
AND R. SCOTT JONES MOTION TO DISMISS PLAINTIFF'S
COMPLAINT PURSUANT TO FED. R. CIV. P. 12(b)(6)**

The Defendants, AFP Imaging Corporation, Biowave Innovations, LLC and R. Scott Jones move to dismiss this action under Rule 12(b)(6) of the Federal Rules of Civil Procedure because Plaintiff fails to state a claim on which relief may be granted. As more fully explained in the attached Memorandum of Law, the Plaintiff's claims are contradicted by the controlling contract between the parties; Plaintiff fails to plead justifiable reliance; and since there is a valid contract, Plaintiff's unjust enrichment claim is barred.

WHEREFORE, the Defendants respectfully request that this Honorable Court dismiss the Plaintiff's Complaint, dated May 3, 2017, pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted.

Dated: Stamford, CT
 August 21, 2017

THE DEFENDANTS

By: /s/ Luigi Spadafora
 Luigi Spadafora, Esq.
 NY No. 2366920
 Brian J. Palmeri, Esq.
 NY No. 4560793
 177 Broad Street, 10th Floor
 Stamford, CT 06901
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 Fax: (203) 328-1212
 Spadafora.L@wssllp.com
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 Attorneys for Defendants